

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

MEMPHIS COMMUNITY AGAINST
POLLUTION, INC., PROTECT OUR
AQUIFER, and SIERRA CLUB,

Plaintiffs,

v.

UNITED STATES ARMY CORPS OF
ENGINEERS, an agency of the United
States Department of Defense, and LT.
GEN. SCOTT SPELLMON, in his official
capacity as Chief of Engineers and
Commanding General of the U.S. Army
Corps of Engineers,

Defendants.

Case No. 2:21-cv-02201-JTF-ATC

**NOTICE OF WITHDRAWAL OF BYHALIA PIPELINE LLC'S
MOTION TO INTERVENE**

Byhalia Pipeline LLC ("Byhalia") files this Notice to inform the Court that it is withdrawing its previously filed Motion to Intervene and the memoranda supporting that motion.

On April 16, 2021, Byhalia filed the Motion to Intervene and a supporting memorandum in the above-captioned case. ECF Nos. 7, 7-2. Federal Defendants took no position on the motion. Plaintiffs Memphis Community Against Pollution, Inc., Protect Our Aquifer, and Sierra Club (collectively, "Plaintiffs") took no position on Byhalia's motion to intervene, but opposed the portion of the motion that sought leave to defer the filing the of a responsive pleading. *See* ECF Nos. 16. Byhalia's Motion to Intervene remains pending.

Since filing the Motion to Intervene, Byhalia has determined that it will no longer pursue the pipeline construction project for which the U.S. Army Corps of Engineers ("USACE") issued

the 2017 Nationwide Permit 12 verifications, the permits that authorized certain activities in conjunction with the pipeline's construction, challenged by Plaintiffs in this case. Therefore, on July 8, 2021, Byhalia requested that USACE's Memphis and Vicksburg Districts revoke their respective Nationwide Permit 12 verifications. *See* Exs. A & B. On July 28, 2021, USACE acknowledged Byhalia's request and informed the company that "the verifications issued under Nationwide Permit 12 (MVM-2019-206 and MVK-2019-473) are no longer valid." Ex. C.

Because Byhalia no longer holds the USACE permits subject to challenge by Plaintiffs in this action, and because Byhalia has cancelled the project that would have used these Nationwide Permit 12 verifications, there is no longer any need for Byhalia to intervene to protect Byhalia's interest in the challenged permits. Therefore, Byhalia respectfully withdraws the pending Motion to Intervene and supporting memoranda, ECF Nos. 7, 7-2, 19-1.

Dated: August 11, 2021

Respectfully submitted,

/s/ William L. Penny

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CERTIFICATION OF SERVICE

I hereby certify that on this 11th day of August 2021, a true and correct copy of the foregoing NOTICE OF WITHDRAWAL OF BYHALIA PIPELINE LLC'S MOTION TO INTERVENE was served via the court's electronic filing system on the following persons:

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